

Application No.: 09/851,791
Amendment Dated: March 1, 2006
Reply to Office Action of: December 2, 2005

MTS-3257US

Remarks/Arguments:

Claims 28, 48-49 and 51-73 are pending in the above-identified application. Claims 1-4, 9, 11-27 and 29-39 were withdrawn. Claims 5-8, 10, 40-47 and 50 were cancelled.

Claims 62 and 69-73 are objected to because of informalities. In particular, claims 62 and 69-73 are objected to because of confusing claim element construction. This objection is overcome by the amendments to claims 62 and 69-73.

Claims 28, 48-49 and 51-73 are rejected under 35 U.S.C. § 103 (a) as being obvious in view of Nakayama et al. and in view of Official Notice.

With regard to claim 28, this ground for rejection is respectfully traversed. In particular, the Examiner has not found a reference which discloses an information recommendation apparatus which comprises "access history control means of determining the number of recommendation times and recommendation information of contents recommended by said recommendation means on the basis of the number of times the user carried out content registration by using said content registration means."

At page 5 of the Office Action, the Examiner discloses that Nakayama et al. do not disclose access history control means and content registration means determining access to content. However, the Examiner takes Official Notice that there are incentive programs that reward a participant based on contributed value. The Examiner asserts examples of these incentive programs. First, frequent flyer programs award flyers miles or points for taking flights. Second, shopper promotions award shoppers two items for buying a first item.

However, in these examples, the user is only rewarded for initially purchasing the initial flight or the first item. In other words, a user is rewarded only by giving money. In contrast, according to claim 28, the user is rewarded recommended content on the basis of the number of times the user carried out content registration. The user does not have to pay in order to receive recommended content.

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In the examples used by the Examiner, a service provider (airline or store) provides a service which becomes incentive for a customer according to the customer's usage of that service. In these examples, usage of service (money) flows from the customer to the service provider. As a result, service flows from the service provider to the customer and becomes incentive. In contrast, in the present invention, a service provider provides service which becomes incentive (such as a right for use by searching and recommending contents) for a user. The service provider increases the degree of user satisfaction and the service provider tries to attract customers. Thus, the service provider increases content themselves. Contents flow from the user to the service provider, and as a result, the right for use of contents flows from the service provide to the user.

Thus, the present invention has several advantages over the prior art. First, the contents that the user creates are collected. Second, the more the user registers the contents, the more the user can search the contents. Thus, the user is given a motive for registering contents. As a result, many contents can be collected. Third, the present invention can obtain the user's taste.

The Examiner also asserts, as another example of an incentive program, that "two people with information that the other would like to have shared quid pro quo." This use of Official Notice is not consistent with USPTO policy, as stated in the memorandum of February 21, 2002 from Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy to the Patent Examining Corps Technology Center Directors. In The memorandum is entitled: "Procedures for relying on facts which are not of record as common knowledge or for taking Official Notice." These procedures state:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art.

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It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based (Emphasis in original).

Applicants respectfully traverse the Official Notice, common-knowledge, assertion upon which this rejection is based. There is no evidence in the record that "access history control means of determining the number of recommendation times and recommendation information of contents recommended by said recommendation means on the basis of the number of times the user carried out content registration by using said content registration means," as defined in claim 28, can be determined from the example of "two people with information that the other would like to have shared quid pro quo."

If the Examiner continues to assert that this element of claim 28 is well known, Applicants respectfully request that a "citation to some reference work recognized as standard in the pertinent art" be provided.

Because neither Nakayama et al., nor Official Notice taken by the Examiner disclose the limitations of claim 28, claim 28 is not subject to rejection under 35 U.S.C. § 103(a) in view of Nakayama et al. and Official Notice. Claims 53-73 depend from claim 1. Accordingly, these claims are not subject to rejection under 35 U.S.C. § 103(a) in view of Nakayama et al. and Official Notice taken by the Examiner for at least the same reasons as claim 28.

With regard to claim 48, claim 48, while not identical to claim 28, includes features similar to those set forth above with regard to claim 28. Thus, claim 48 is also not subject to rejection under 35 U.S.C. § 103(a) for at least the same reasons as those set forth above with regard to claim 28. Claims 49 and 51-52 depend from claim 48. Thus, claims 49 and 51-52 are also not subject to rejection under 35 U.S.C. § 103(a) for at least the same reasons as those set forth above with regard to claim 48.

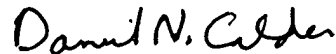
The prior art made of record but not applied has been considered but does not affect the patentability of the invention.

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In view of the foregoing amendments and remarks, Applicants request that the Examiner reconsider and withdraw the objections to claims 62 and 69-73 and the rejection of claims 28, 48-49 and 51-73. Reconsideration and allowance of all pending claims are respectfully requested.

Respectfully submitted,



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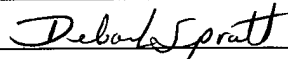
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